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In re Application of:) Art Unit: 1647
GRONHOJ-LARSEN, et al.) Examiner: HAMUD, Fozia
Serial No.: 09/101,825) Washington, D.C.
Filed: July 17, 1998) April 28, 2004
For: SYNTHETIC IL-10) Docket No.: GRONHOJ-LARSEN-2
ANALOGUES) Confirmation No.: 1107

APR 28 2004

OFFICIALAPPLICANT'S RECORD OF SUBSTANCE OF INTERVIEW
AND PROPOSED EXAMINER'S AMENDMENT

BY FACSIMILE - (703-872-9306 AND 571-273-0887)
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Sir:

Applicants thank Supervisory Patent Examiner Gary Kunz for granting Counsel a telephonic interview on April 27, 2004. All claims were discussed, and agreement was reached as to an amendment to put the claims into condition for allowance. Counsel's understanding of the allowable claims has been put into the form of a proposed examiner's amendment, attached. If it is acceptable to the Examiner, it can be copied directly into the Notice of Allowance.

The issues discussed in the interview were the following:

"non-naturally occurring". This term was used so that the claim could not inadvertently read on a product of nature. Counsel was persuaded that the "at least partially purified" language was a sufficient precaution.

"non-natural or unusual amino acids". This terminology is discussed on pages 17-18 of the specification. SPE Kunz expressed a preference for alternative language, and counsel

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suggested that we recite an amino acid other than the twenty genetically encoded amino acids. Basis exists at P17, L27-34, and this change is considered to be stylistic rather than a change in scope.

"stabilized". Counsel agreed to delete this language without prejudice or disclaimer. This change should not be construed as affecting the scope of clause (I), which allows use of amino acids which can, inter alia, stabilize the polypeptide against proteolytic degradation as taught by P19, L3-6.

"salt, solvate or ester". The examiner questioned the term "ester" in the composition claim 41 because a polypeptide has numerous esterifiable groups. Counsel accedes to deletion of "ester" because esterified amino acids are subsumed in (I).

"peptidomimetics". Counsel agreed to delete the peptidomimetic coverage, without prejudice or disclaimer.

Method claims. Counsel agreed to limit the explicit method coverage to those directed to pancreatitis and ARDS-like syndrome, without prejudice or disclaimer. Of course, the polypeptide and composition claims would be infringed by any use of the claimed subject matter.

"Liposome". Counsel agrees that the liposome comprises a polypeptide.

Double patenting issue. Counsel called to the Examiner's attention three related Patents:

Gronhoj-Larsen, USP 6,159,937 (December 12, 2000)

Gronhoj-Larsen, USP 6,168,791 (January 2, 2001)

Gronhoj-Larsen, USP 6,599,501 (July 29, 2003).

The Examiner has since advised Counsel that it appears that the '937 and '501 patents raise double patenting issues. Counsel is willing to file a terminal disclaimer with respect to these patents once confirmation of allowability of the amended claims is obtained. The patents do not raise 102(e) issues because,

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e.g., the inventors are the same.

Respectfully submitted,

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